

Message Text

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ACTION EB-07

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EO: 11652: N/A

TAGS: ETRD, MTN, CO

SUBJ: MTN: TROPICAL PRODUCTS NEGOTIATIONS

REF: STATE 287116

1. WE BELIEVE THAT NON-TARIFF BARRIERS ARE THE MOST FRUITFUL AREA FOR NEGOTIATIONS WITH COLOMBIA. COLOMBIAN TARIFF POLICY IS HEAVILY INFLUENCED BY ANDEAN PACT DECISIONS AND TARIFFS OF THE SIX COUNTRIES WILL BECOME EVEN MORE INTERTWINED AS THEY WORK TOWARDS ESTABLISHMENT OF A COMMON EXTERNAL TARIFF. WE DOUBT THAT COLOMBIA COULD MAKE ANY SIGNIFICANT TARIFF CONCESSIONS WITHOUT THE AGREEMENT OF THE OTHER ANDEAN PACT COUNTRIES.

2. ON THE NON-TARIFF BARRIER SIDE, THERE ARE A NUMBER OF OBJECTIVES WE SHOULD PURSUE VIGOROUSLY. PRIORITY ITEMS WOULD INCLUDE THE FOLLOWING:

A. PRIOR LICENSE REQUIREMENTS. WHILE A NUMBER OF GOODS ARE ON THE FREE LIST AND DO NOT REQUIRE ADVANCE APPROVAL FOR IMPORTATION, IMPORTS OF A WIDE RANGE OF CONSUMER, PRODUCER AND AGRICULTURAL PRODUCTS ARE SUBJECT TO PRIOR LICENSE REQUIREMENTS.

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CULTURAL ITEMS REQUIRE AN ADVANCE LICENSE AND ARE THEREFORE SUBJECT TO PRIOR LICENSE REQUIREMENTS.

JECT TO THE SCRUTINY OF INCOMEX THE COLOMBIAN FOREIGN TRADE INSTITUTE. APPROVALS ARE BASED ON A VARIETY OF FACTORS INCLUDING 1) DOMESTIC PRODUCTION OF LIKE OR SIMILAR ITEMS, 2) FOREIGN EXCHANGE AVAILABILITY AND 3) WHETHER OR NOT THE ITEM IS CONSIDERED ESSENTIAL TO THE COLOMBIAN ECONOMY. THE DENIAL OF LICENSES HAS HAD ITS MOST SIGNIFICANT IMPACT ON U.S. EXPORTS OF TEXTILE PRODUCTS AND AGRICULTURAL PRODUCTS, INCLUDING PROCESSED FOOD ITEMS. LICENSE APPROVALS CAN TAKE FOUR TO SIX WEEKS, OR LONGER, DEPENDING UPON THE AVAILABILITY OF FOREIGN EXCHANGE. ANY AMENDMENTS TO LICENSES ISSUED (FOR REASONS OF COST, EXTENSION IN VALIDITY, CHANGE IN DESCRIPTION OF ITEM, ETC.) ALSO HAVE TO BE SUBMITTED TO INCOMEX FOR APPROVAL.

B. ADVANCE DEPOSIT. FOR ITEMS REQUIRING A PRIOR IMPORT LICENSE THERE ALSO EXISTS A REQUIREMENT FOR THE IMPORTER TO DEPOSIT A PERCENTAGE OF THE FOB IMPORT VALUE WITH THE CENTRAL BANK. THE ADVANCE DEPOSIT CURRENTLY IS 25 PERCENT, BUT THE FIGURE CAN VARY DEPENDING ON FOREIGN EXCHANGE AVAILABILITY AND IMPORT DEMAND.

C. CONSULAR INVOICE. COLOMBIA IS ONE OF THE FEW COUNTRIES THAT STILL REQUIRES A CONSULAR INVOICE FOR IMPORTS. THE FEE IS ONE PERCENT, BUT THE COSTS OF PROCESSING THE INVOICE CAN ADD CONSIDERABLY TO THAT FIGURE.

D. HEALTH AND SANITARY RESTRICTIONS. COLOMBIAN HEALTH AND SANITARY REQUIREMENTS HAVE BEEN DESCRIBED BY USDA'S ANIMAL AND PLANT HEALTH INSPECTION SERVICE AS OFTEN "IMPOSSIBLE TO OVERCOME." THESE REQUIREMENTS HAVE HAD THEIR HEAVIEST IMPACT ON IMPORTS OF SEMEN AND BREEDING STOCK.

E. GOVERNMENT MARKETING POLICY. MANY AGRICULTURAL ITEMS ARE IMPORTED AND MARKETED BY IDEMA, THE GOC'S AGRICULTURAL MARKETING INSTITUTE. RECENTLY, IDEMA HAS SET THE DOMESTIC PRICE OF CERTAIN IMPORTED COMMODITIES, SUCH AS WHEAT, CONSIDERABLY ABOVE THE ACTUAL IMPORT PRICE, THUS LEADING TO A DECREASE IN DEMAND.

F. GOVERNMENT TENDERS. MOST INTERNATIONAL TENDERS ARE HANDLED IN A REASONABLY OPEN AND STRAIGHTFORWARD FASHION, ALTHOUGH THE TIME BETWEEN THE ANNOUNCEMENT OF THE TENDER AND ITS CLOSING DATE OFTEN IS TOO SHORT TO PERMIT PARTICIPATION BY COMPANIES NOT ALREADY REPRESENTED HERE. HOWEVER, TWO BARRIERS TO GREATER PARTICIPATION BY U.S. COMPANIES ARE 1) THE REQUIREMENT THAT ALL TAXES AND FEES PLUS A 15 PERCENT SURCHARGE OR THE APPLICABLE TARIFF (WHICHEVER IS HIGHER) BE ADDED TO THE PRICES OF IMPORTED GOODS AND EQUIPMENT, BUT NOT TO DOMESTIC PRODUCTS, PRIOR TO MAKING

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ING PRICE COMPARISONS AND EVALUATION (THE SURCHARGE OR DUTY IS ADDED FOR PURPOSES OF COMPARISON EVEN WHEN THE ITEMS ARE DESTINED FOR GOVERNMENT INSTITUTIONS WHICH CAN IMPORT DUTY FREE) AND 2) OCCASIONAL INTERNATIONAL TENDERS WHICH GIVE PREFERENCE TO BIDDERS WILLING TO ACCEPT COLOMBIAN PRODUCTS AS AT LEAST PARTIAL PAYMENT, THUS FAVORING THE STATE TRADING COUNTRIES OR THOSE WITH WHICH COLOMBIA HAS COMPENSATION AGREEMENTS.

G. CUSTOMS CLEARANCES. SHIPPING AGENTS INFORM US THAT AROUND

20 DAYS ARE REQUIRED TO CLEAR MERCHANDISE THROUGH CUSTOMS, EVEN WHEN SHIPPING AND IMPORT DOCUMENTS ARE IN ORDER. THE PROBLEM SEEMS TO BE MOSTLY THAT OF AN ENTANGLED CUREAUCRACY REQUIRING A SERIES OF APPROVALS AND SIGNATURES BEFORE RELEASE OF SHIPMENTS CAN BE AUTHORIZED. DOCUMENTS THAT MUST BE PRESENTED INCLUDE IMPORT LICENSE, COMMERCIAL INVOICE, CONSULAR INVOICE, BILL OF LADING AND PACKING LIST. RAW MATERIALS ARE SOMETIMES SUBMITTED TO AN ANALYSIS, WHICH CAN TAKE MONTHS. IN THE LATTER CASE, THE IMPORTER HAS A CHOICE OF LEAVING THE RAW MATERIALS IN CUSTOMS OR POSTING A BOND FOR THEIR REMOVAL.

H. RESERVATION OF CARGO LAW. UNDER DECREE 1208 OF JULY 1969, A MINIMUM OF 50 PERCENT OF INCOMING CARGO IS RESERVED FOR COLOMBIAN BOTTOMS OR SELECTED ECUADORIAN FLAG SHIPS. ALTHOUGH THE LAW IS WORDED IN SUCH A WAY AS TO PERMIT FOREIGN FLAG CARRIERS ASSOCIATED WITH COLOMBIAN LINES TO PARTICIPATE IN THE 50 PERCENT (LYKES AND PRUDENTIAL GRACE WOULD QUALIFY FOR SHIPMENTS FROM THE U.S.), COLOMBIAN GOVERNMENT INSTRUCTIONS ARE VAGUE AND EASILY MISINTERPRETED, LEADING MANY U.S. EXPORTERS, FREIGHT FORWARDERS AND BANKS TO SPECIFY COLOMBIAN FLAG CARRIERS WHEN THE 50 PERCENT REQUIREMENT IS STAMPED ON IMPORT LICENSES, CONSULAR INVOICES, ETC. THE RESTRICTIONS ARE REINFORCED BY GOC DECISIONS TO PLACE NEARLY ALL INCOMING OFFICIAL CARGO ON COLOMBIAN FLAG SHIPS AND BY SUBTLE PRESSURES ON IMPORTERS TO "SHIP COLOMBIAN."

3. WHILE ALL OF THE ABOVE ITEMS QUALIFY AS NTB'S, SOME ARE MORE AMENDABLE TO MODIFICATION THAN OTHERS. IN OUR OPINION, THE GREATEST OPPORTUNITIES FOR PROGRESS, IN ORDER OF PREFERENCE AND POSSIBLY LEAST COST TO THE U.S., LIE IN SEEKING A) REMOVAL OF THE CONSULAR INVOICE, WHICH IS AN ARCHAIC REQUIREMENT BY ANYBODY'S DEFINITION; B) THE WIDEST POSSIBLE EXPANSION OF THE FREE LIST; C) REDUCTIONS IN HEALTH AND SANITARY REQUIREMENTS, PARTICULARLY AS THEY APPLY TO IMPORTS OF SEMEN AND BREEDING STOCK; D) SIMPLIFICATIONS TO CUSTOMS CLEARANCES REQUIREMENTS WHICH, THROUGH THEIR LIMITED OFFICIAL USE

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BUREAUCRATIC COMPLEXITY, TEND TO CREATE OPPORTUNITIES FOR CORRUPTION (PRIMARILY PAYOFFS); E) ELIMINATION OF THE OCCASIONAL PRACTICE OF GIVING PREFERENCE IN INTERNATIONAL TENDERS TO COUNTRIES OR COMPANIES WILLING TO ENGAGE IN BARTER DEALS; AND F) ELIMINATION OF THE PRACTICE BY IDEMA OF SETTING THE DOMESTIC SALES PRICE OF IMPORTED AGRICULTURAL PRODUCTS AT A LEVEL CONSIDERABLY ABOVE THE ACTUAL IMPORT PRICE.

4. ON THE OTHER HAND, UNLESS WE ARE PREPARED TO GRANT CONSIDERABLE BENEFITS TO THE COLOMBIANS, WE DO NOT SEE MUCH TO BE GAINED BY PRESSING FOR A) REMOVAL OF THE ADVANCE DEPOSIT REQUIREMENT, WHICH THE GOC VIEWS AS A MONETARY CONTROL DEVICE AND AN INSTRUMENT IN THEIR EFFORTS TO CONTROL INFLATION; OR B) ELIMINATION OF THE RESERVATION OF CARGO LAW, WHICH IS AN ESSENTIAL PART OF THE GOVERNMENT'S POLICY TO MAINTAIN A STRONG COLOMBIAN FLAG CARRIER.

5. AS A FINAL THOUGHT, WE SHOULD REMEMBER THAT THE BILATERAL BALANCE OF TRADE NORMALLY IS IN FAVOR OF THE U.S., A FACT MENTIONED OFTEN BY THE COLOMBIANS, AND THAT THE OBJECTIVE OF THE GOC WILL BE TO SEEK MODIFICATIONS TO WHAT THEY VIEW AS BARRIERS ON OUR SIDE (SUCH AS THE TEXTILE AGREEMENT) SO THAT THEY MAY INCREASE THEIR EXPORTS TO THE U.S.

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